FARAD CONTINUATION SHEET.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.2981/2005

Murlidhar s/o Deokaran Mundhada and another

...Versus...

Nandkishor s/o Laxminarayan Mundhada and others

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

CORAM: **B.P. DHARMADHIKARI, J.**
DATED : **19.12.2005.**

1. Heard Advocate Shri Sirpurkar for petitioners and Advocate Shri Ramesh Darda for respondent no.1.

2. The challenge is to the order dated 22.3.2005 passed by First Ad-hoc Additional District Judge, Buldana rejecting the application of present petitioner for referring the 'Will' at exh.57 to finger prints expert for verification.

3. The learned Counsel states that thumb impression of Bhagirathibai on the said 'Will' is in dispute. He invites attention to stand in this respect in paragraph nos.6 and 8 of written statement and also to cross-examination of scribe Pundlik. As against this Advocate Shri Darda for respondent states that appellate court has rightly exercised discretion available to it in the matter and has refused to send the documents to handwriting expert.

4. Perusal of impugned order reveals that the appellate court has made reference to examination-in-chief of Ramnarayan and found that the case of Ramnarayan at the relevant time was that thumb impression of Bhagirathibai was obtained when she was unconscious. The said document which is produced on record shows that it is a registered 'Will'. It has further found that no such objection was raised before trial court and no request for sending the document to the finger prints expert

was made before the trial court.

5. After perusal of writ petition, evidence of Ramnarayan and evidence of Pundlik, I found that the exercise of discretion at appellate stage by appellate court cannot be labeled as perverse or without jurisdiction. Hence, I am not inclined to interfere in the matter in the writ jurisdiction. However, the petitioner is at liberty to challenge the said order in appeal after final decision in R.C.A. No. 98/1999.

6. Writ Petition is accordingly dismissed. No costs.

JUDGE

SSW